

as antibodies, cytokines or receptors" and "various magnetic field sensors." It is believed from this discussion that the invention has been misunderstood. Thus, as stated in claim 1, in the invention, various ferromagnetic or ferrimagnetic substances are used as magnetic labeling which is identified in immunoassays or other binding assays. Claim 3 recites a process wherein structure-specific substances are labeled with ferrimagnetic or ferromagnetic substances, and the resultant magnetic labeled-structure specific substances are used in an assay. It is submitted, therefore, not to be possible to elect the "ferromagnetic substances" or "structure-specific substances," inasmuch as these materials are used together in the invention, as can be seen from applicants' election of "magnetite-labeled anticollagen." Thus, it is submitted that the requirement for an election must be reformulated to require election of a species of each of the structure-specific substance and magnetic substance, and potentially the magnetic field sensor.

The misunderstanding underlying the election requirement is further evident where the Office Action indicates that claims "are deemed to correspond" to various ferromagnetic substances, structure specific substances and magnetic field sensors. For example, since all the claims essentially involve coupling of a ferromagnetic substance and a structure specific substance, and detection with a given magnetic field sensor, it can be seen that all of the claims correspond to all of these "species." Once a specific substance is elected, of course, not all claims must necessarily correspond to the elected species. But, prior to the election, the division at page 3 of the Office Action simply makes no sense. Accordingly, applicants have elected a species of each of the magnetic material, structure-specific substance, and field sensor. Claims 1-8 and 10-39 read on the elected species.

The second reason for traversal of the requirement for election for species is the argument at page 3 of the Office Action that the species "do not relate to a single inventive concept," because the "species lack the same or corresponding special technical features." Applicants respectfully disagree with this analysis. To the extent that, as the last paragraph on page 3 of the Office Action is understood, the PTO argument is that various types of magnetic substances and/or structure specific substances do not bind in a similar manner, this is submitted to be essentially trivial and not related to the inventive concept. The inventive concept, for example, as set forth in claim 1, relates to the use of magnetically-coupled structure specific substances to measure analytes in a liquid or solid phase. Selection of

particular bound magnetic markers is wholly conventional in view of the guidance given in the specification, and does not require undue experimentation. The inventive concept does not vary with the particular material or analyte bound, but all bound ligands are used in the invention in a similar manner. Thus, the inventive concept does not change regardless of any material employed therein. The materials are, in fact, especially adapted for use in the process claimed, and thus are part of a single inventive concept. This is submitted to be an additional reason for withdrawal of the restriction requirement.

Should the Examiner have any questions or comments, he or she is cordially invited to telephone the undersigned below.

Respectfully submitted,



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